



Hawai'i Convention Center
1801 Kalākaua Avenue, Honolulu, Hawai'i 96815
kelepona tel 808 973 2255
kelepa'i fax 808 973 2253
kahua pa'a web hawaii-tourismauthority.org

David Y. Ige
Governor

Ronald Williams
Chief Executive Officer

Testimony of
Ronald Williams
President and Chief Executive Officer
Hawai'i Tourism Authority
on
S.B. No. 519, S.D. 2
Relating to Taxation
House Committee on Tourism
Wednesday, March 18, 2015
9:30 a.m.
Conference Room 312

The Hawaii Tourism Authority offers the following comments on S.B. 519, S.D. 2, which extends the repeal date of Act 326, Session Laws of Hawaii 2012, by five years, authorizes the Tax Department to enforce the civil penalties for failing to display the required certificate of registration, and requires the Department to report annually on the implementation of Act 326.

We prefer, instead, H.B. 825, which takes a more comprehensive approach to regulating transient vacation rentals.

Mahalo for the opportunity to offer these comments.

DAVID Y. IGE
GOVERNOR

SHAN TSUTSUI
LT. GOVERNOR



MARIA E. ZIELINSKI
DIRECTOR OF TAXATION

STATE OF HAWAII
DEPARTMENT OF TAXATION
P.O. BOX 259
HONOLULU, HAWAII 96809
PHONE NO: (808) 587-1540
FAX NO: (808) 587-1560

To: The Honorable Tom Brower, Chair
and Members of the House Committee on Tourism

Date: Wednesday, March 18, 2015

Time: 9:30 A.M.

Place: Conference Room 312, State Capitol

From: Maria E. Zielinski, Director
Department of Taxation

Re: S.B. 519, S.D. 2, Relating to Taxation

The Department of Taxation (Department) appreciates the intent of S.B. 519, S.D. 2, but respectfully opposes section 4 of this measure which extends Act 326, Session Laws of Hawaii 2012 (Act 326). The Department provides the following information and comments for your consideration.

S.B. 519, S.D. 2, grants the Department the authority to issue cease and desist citations to operators of transient accommodations who fail to display their Transient Accommodations Tax license (TAT license). This measure also extends Act 326 for five years, and requires the Department to submit an annual report to the Legislature on the Act's implementation. S.D. 2 is effective upon approval.

The Department respectfully opposes the extension of Act 326 as set forth in section 4 of this measure. While the Department supports the State's effort to address unlawful transient accommodations, most of the requirements in Act 326 are insufficient to adequately address all issues raised by illegal transient accommodations and are not directly related to the Department's tax collection function. For this reason, the Department respectfully requests that section 4 of this measure be deleted, and Act 326 be allowed to sunset.

The Department does, however, support section 2 of this measure, which adds the provisions related to fines for failure to display TAT license numbers in section 237D-4, Hawaii Revised Statutes (HRS). The Department suggests that this measure be amended to allow fines to be assessed for failure to display license numbers in online advertisements, as well as specifying the maximum fine amount in the measure. The suggested language below contains a

fine amount of \$1,000 per violation; however, the Department defers to the Committee's discretion on what constitutes an appropriate amount.

§237D-4 Certificate of Registration. (a) Each operator or plan manager as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or in business as a resort time share vacation plan shall register with the director the name and address of each place of business within the State subject to this chapter. The operator or plan manager shall make a one-time payment as follows:

- (1) \$5 for each registration for transient accommodations consisting of one to five units;
- (2) \$15 for each registration for transient accommodations consisting of six or more units; and
- (3) \$15 for each resort time share vacation plan within the State;

upon receipt of which the director shall issue a certificate of registration in such form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the operator or plan manager in whose name it is issued and for the transaction of business at the place designated therein.

(b) The registration, or in lieu thereof a notice stating where the registration may be inspected and examined, shall at all times be conspicuously displayed at the place for which it is issued. Acquisition of additional transient accommodation units after payment of the one-time fee shall not result in additional fees. Failure to meet the requirements of this subsection shall be unlawful. The department may issue cease and desist citations to any person who fails to conspicuously display such registration or notice as required pursuant to this subsection. A cease and desist citation issued pursuant to this subsection shall include a monetary fine of \$1,000 and may be issued once per day, per place for which the registration or notice was issued.

(c) The registration identification number issued pursuant to this section shall be provided on a website or by online link and displayed in all advertisements and solicitations on websites regarding transient accommodations for which the registration number is issued. Failure to meet the requirements

of this subsection shall be unlawful. The department may issue cease and desist citations to any person who fails to provide such registration identification number as required by this subsection. A cease and desist citation issued pursuant to this subsection shall include a monetary fine of \$1,000 and may be issued once per day, per advertisement.

(d) The registration provided for by this section shall be effective until canceled in writing. Any application for the reissuance of a previously canceled registration identification number shall be regarded as a new registration application and shall be subject to the payment of the one-time registration fee. The director may revoke or cancel any license issued under this chapter for cause as provided by rule under chapter 91.

~~[(b)]~~ (e) If the license fee is paid, the department shall not refuse to issue a registration or revoke or cancel a registration for the exercise of a privilege protected by the First Amendment of the Constitution of the United States, or for the carrying on of interstate or foreign commerce, or for any privilege the exercise of which, under the Constitution and laws of the United States, cannot be restrained on account of nonpayment of taxes, nor shall section 237D-14 be invoked to restrain the exercise of such a privilege, or the carrying on of such commerce.

~~[(e)]~~ (f) Any person who may lawfully be required by the State, and who is required by this chapter, to register as a condition precedent to engaging or continuing in the business of furnishing transient accommodations or as a plan manager subject to taxation under this chapter, who engages or continues in the business without registering in conformity with this chapter, shall be guilty of a misdemeanor. Any director, president, secretary, or treasurer of a corporation who permits, aids, or abets such corporation to engage or continue in business without registering in conformity with this chapter, shall likewise be guilty of a misdemeanor. The penalty for the misdemeanors shall be that prescribed by section 231-34 for individuals, corporations, or officers of corporations, as the case may be, for violation of that section.

The Department notes that, as currently written, this measure would deposit fines in the tax administration special fund. In order to effectuate this intent, the Department suggests amending section 235-20.5(a), HRS, read as follows:

§235-20.5 Tax administration special fund; established.

(a) There is established a tax administration special fund, into which shall be deposited:

(1) Fees collected under sections 235-20, 235-110.9, and 235-110.91;

[+](2)[+] Revenues collected by the special enforcement section pursuant to section 231-85; provided that in each fiscal year, of the total revenues collected by the special enforcement section, all revenues in excess of \$500,000 shall be deposited into the general fund[-] ; and

(3) Fines assessed pursuant to section 237D-4.

Thank you for the opportunity to provide comments.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

**The Twenty-Eighth Legislature, State of Hawaii
House of Representatives
Committee on Tourism**

**Testimony by
Hawaii Government Employees Association
March 18, 2015**

S.B. 519, S.D. 2 – RELATING TO TAXATION

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the purpose and intent of S.B. 519, S.D. 2. This important legislation will enhance the enforcement of our state's transient accommodations tax (TAT) on home-based vacation rentals. S.B. 519, S.D. 2 requires operators of transient accommodations and plan managers of resort time-share vacation plans to comply with registration requirements in advertisements. This legislation also increases penalties for operators and plan managers who do not comply with the law, including escalating civil penalties for repeat violators.

Tighter enforcement is necessary because illegal home-based vacation rentals are not paying their fair share of the TAT. The Hawaii Tourism Authority (HTA) recently commissioned a study which revealed that home-based rentals account for 25% of all visitor lodging units statewide. The same survey found that there are more than 22,000 in-home vacation units statewide – more than 3 times the estimate of 6,943 in 2013. While the counties decide how to deal with the rapid growth of illegal vacation rentals, the State of Hawaii should collect TAT revenue from these properties to pay for the additional community services that are directly related to their use and lower the tax burden on local residents.

Until this particular market is better regulated at the county level, it is difficult to know how many millions of dollars to the state are lost from homeowners who are operating home-based vacation rentals and not paying the TAT. In the meantime, there must be enforcement of the TAT so that the playing field is level. It is only fair that anyone doing business as a lodging entity pay some form of the transient accommodations tax through proper taxation. The HTA study highlighted the scope of this problem. Now, state officials must respond with strict enforcement of the TAT.

Thank you for the opportunity to testify in support of S.B. 519, S.D. 2.

Respectfully submitted,

**Randy Perreira
Executive Director**



March 16, 2015

Honorable Representative Brower and
Honorable Members of the House Committee on Tourism

Re: SB519 SD2

Rentals by Owner Awareness Association is pleased to fully and unequivocally **SUPPORT** SB519 SD2.

The extension of Act 326 for five years is, quite simply, the best mechanism to govern the array of transient accommodation offerings in the state of Hawai'i. It is fair to the owner-operators, it provides the Department of Taxation with necessary tools to ensure proper tax collection and provides for the appropriate level of consumer protection.

George Szigeti, President of the Hawaii Lodging and Tourism Association, in his testimony to the Senate committee hearing this bill, supported SB519, stating that it creates parity between the individually advertised vacation rentals and the rest of the lodging industry.

The only opposition you may hear is from the vacation property managers who are hired by property owners to handle their properties. They will argue Act 326 should require a real estate licensee to provide such consumer protection functions as calling a plumber and letting them in when they have forgotten their key. They will also argue they are key to ensuring tax collection, even though most property managers send the rental funds, net of their fee, to the owners who are expected to then file and remit GET and TAT. Don't be fooled by their language. The role referred to as "on-island agent" can be filled by either a real estate licensee or any resident depending on what functions the agent DOES. RICO and the REC both agree on this point.

RBOAA is pleased to **SUPPORT** SB519 SD2, including the extension of the sunset provision for five years, the annual report from the Department of Taxation and the reasonable penalties for those who do not comply.

Mahalo for your work and dedication to the people of Hawai'i.

Aloha,

Alicia Humiston
President, RBOAA

WHAT DO YOU NEED TO KNOW?

Hawaii's Residential Landlord-Tenant Code. Hawaii's Residential Landlord-Tenant Code covers the rights and obligations of landlords and tenants who rent on a month-to-month, week-to-week, or other term lease basis. A property owner who rents or leases his/her own property *must* comply.

Housing discrimination in Hawaii. Hawaii law prohibits, among other things, discrimination when renting or leasing property. Protected categories include race, sex, disability, familial status, religion, color, ancestry/national origin, age, marital status, and HIV infection.

State and county tax laws. Property owners must also comply with applicable state and county tax laws, including Hawaii's Transient Accommodations Tax law.

What should I do? To start, read and review Chapters 237, 467, 515, and 521 of the Hawaii Revised Statutes (and their related rules). A link to some of the Hawaii Revised Statutes can be found at hawaii.gov/hirec.

RICO is the enforcement arm for over forty-five professional boards, commissions, and programs that are administratively attached to DCCA. RICO receives complaints, conducts investigations, and prosecutes licensing law violations. RICO also prosecutes unlicensed activity through the issuance of citations and by filing civil lawsuits in the Circuit Courts. RICO works to resolve consumer complaints where appropriate and provides consumer education about various issues relating to licensing and consumer protection. RICO also administers the State Certified Arbitration Program (SCAP) for "lemon" motor vehicle claims.

For More Information:

For questions about when a real estate license may be required, contact the Hawaii Real Estate Commission's Real Estate Branch at (808) 586-2643. Publications like "Working with a Real Estate Broker" and links to Department of Tax bulletins and more are available at hawaii.gov/hirec.

To report unlicensed real estate activity, call the Regulated Industries Complaints Office's Consumer Resource Center at (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

To check licensing status or for information about hiring a licensed professional, call (808) 587-4272, or visit the RICO website at cca.hawaii.gov/rico.

To obtain a copy of the Office of Consumer Protection's Handbook for the Hawaii Residential Landlord-Tenant Code, contact the Office of Consumer Protection at (808) 586-2634, or download it online at cca.hawaii.gov/ocp.

Neighbor island residents can call, toll-free, by dialing the following numbers, then the last 5 digits of the telephone number they wish to call, followed by the # sign. (Ex. To call the Real Estate Branch from Kauai, dial 274-3141, then 6-2643, then #.)

Kauai...274-3141
Maui... 984-2400
Hawaii..974-4000
Lanai...1-800-468-4644
Molokai. 1-800-468-4644

INFORMATION FOR OWNERS OF RENTAL PROPERTY



Department of Commerce and Consumer Affairs

Regulated Industries Complaints Office

235 S. Beretania Street, Ninth Floor
Honolulu, Hawaii 96813
cca.hawaii.gov/rico

(rev. 140925-REC-Rent)

WHAT ARE MY OPTIONS?

Property owners have some options when renting or leasing their property in Hawaii:

- ✓Self-manage the property
- ✓Employ a custodian or caretaker, or
- ✓Hire a licensed real estate professional

Self-Manage the Property

In the State of Hawaii, a real estate license is required to sell, buy, lease, and manage real property. The law provides an exception for individuals, and an individual *can* sell, buy, lease, and manage his/her own property without a real estate license.

If you decide to self-manage your property, you will need to be familiar with, and comply with, all applicable Hawaii laws. For example, under Hawaii's Residential Landlord-Tenant Code, if you offer to rent your property and live off-island, you'll need to find an **on-island agent** to act on your behalf. The on-island agent doesn't have to be a licensed real estate professional, unless he/she is involved in real estate activities, like renting or offering to rent the property.

If you're off-island, you'll also need to designate a **local contact** who resides on the same island as the transient accommodation. The local contact may be an individual or an entity with a principal place of business on the same island as the property. Because they are on the same island as the transient accommodation, the local contact may be able to assist with issues which may arise relevant to the transient accommodation. The on-island local contact doesn't have to be a licensed real estate professional, unless he/she is also involved in real estate activities, like renting or offering to rent the property.

Employ a Custodian or Caretaker

As an alternative, a property owner can hire a custodian or caretaker to manage or care for his/her property(ies). A "custodian" or "caretaker" doesn't need a real estate license, but must be *employed* by the owner, and can only work as a custodian or caretaker for a single owner. A custodian or caretaker can act as your on-island agent and/or the local contact, if one is required.

Hire a Licensed Real Estate Professional

If vetting tenants and collecting rent isn't for you, you should consider hiring a licensed real estate broker or salesperson. Although a licensed real estate professional will charge for services, here are some things to consider:

• **Familiarity with Hawaii's laws & rules**

Licensed real estate professionals are familiar with the various laws and rules that relate to managing real property in this State, including Hawaii's Landlord Tenant Code, state tax reporting requirements for transient accommodation operators, and Hawaii's fair housing laws.

• **Experience**

Sometimes there's no substitute for experience. Marketing the rental, collecting rent, handling maintenance and repair issues, responding to tenant inquiries and complaints, and handling evictions, are all part of the property management process. Getting help from a professional may save time, money, and headaches, in the end.

• **Manage geographically distant properties**

Because of Hawaii's unique geography, property owners who rent and lease property have additional obligations under Hawaii law. A licensed real estate professional can act as both your on-island agent and your local contact, if one is required.

What to look for:

Who should you hire? To start, you may want to (1) get referrals, (2) ask to speak with other, current clients, and (3) ask to see a sample property management agreement.

Be sure to check licensing and prior complaint history with the Regulated Industries Complaints Office.

DO I HAVE TO HIRE A LICENSED CONTRACTOR TO MAKE REPAIRS?

Yes. A contractor's license is required for any project valued at over \$1,000 for labor and materials, and, regardless of cost, whenever a building permit is required.

An electrician's license is required for electrical work. A plumber's license is required to perform plumbing work.

If you have questions about whether you need to hire a licensed contractor, a licensed electrician, or a licensed plumber, call the Contractor's License Board at (808) 586-2700 or the Board of Electricians and Plumbers at (808) 586-2698.

CAN I HIRE A "HANDYMAN"?

If the total cost of your project, including labor and materials, is less than \$1,000, and doesn't require a building permit, you can hire a handyman. "Handymen" usually perform minor repairs and projects that are typically described as **"odd jobs" or "fix-up tasks."**

Note: The so-called "handyman exemption" does not apply to electrical or plumbing work!



Maui Hotel & Lodging

ASSOCIATION

Testimony of

Lisa H. Paulson

Executive Director

Maui Hotel & Lodging Association

on

SB 519 SD2

Relating To Taxation

COMMITTEE ON TOURISM

Wednesday, March 18, 2015, 9:30am

Conference Room 312

Dear Chair Brower, Vice Chair Ohno, and Members of the Committee,

The Maui Hotel & Lodging Association (MHLA) is the legislative arm of the visitor industry. Our membership includes over 150 property and allied business members in Maui County – all of whom have an interest in the visitor industry. Collectively, MHLA's membership employs over 20,000 local residents and represents over 19,000 rooms. The visitor industry is the economic driver for Maui County. We are the largest employer of residents on the Island - directly employing approximately 40% of all residents (indirectly, the percentage increases to 75%).

MHLA **supports** SB 519 SD2, as amended, Extending Act 326, Session Laws of Hawaii 2012, for 5 years. Requiring the department of taxation to submit an annual report to the legislature on the implementation of Act 326, Session Laws of Hawaii 2012. Authorizing the department of taxation to enforce civil penalties for operators and plan managers who fail to conspicuously display the certificate of registration for transient accommodations.

MHLA **supports** this measure, because it helps to define required registration and advertising; defines violations and penalties. This will help the State and counties better manage the overall enforcement of transient accommodations tax on transient vacation rentals, which will help reduce the tax burden on local residents. With advances in technology and the popularization of the "sharing community" Hawai'i has witnessed a growing number of vacation rentals by owners (VRBO's), most of which are not operating within a legal capacity. By allowing the Department of Taxation to create a comprehensive database of transient accommodations through a registration process and enforcement of penalties for noncompliance, this measure is an important step in regulating and bringing fair equity to all accommodation options within the State of Hawaii.

Thank you for the opportunity to testify.



HOUSE OF REPRESENTATIVES
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

COMMITTEE ON TOURISM
Representative Tom Brower, Chair

3/18/2015

SB 519, SD 2
Relating to Taxation

Chair Brower and Members of this Committee, my name is Max Sword, here on behalf of Outrigger Enterprises Group in support to SB 519.

While we support SB 519, which extends Act 326, as well as adding a few more requirements to strengthen that same act, it still does not totally solve the issues of providing a level playing field for those who comply with the laws, such as paying GET, TAT, etc.

To strengthen Act 326 we suggest the following:

- a) Require online marketers to list GET/TAT numbers on any Individual Advertised Units (IAU) Hawaii listing and as a condition of listing.
- b) Require IAU Hawaii property online listings to include a specific disclosure as to state and county IAU-related law and requirements.
- c) Require IAU owners however marketed/rented to include specific disclosure statement as to key management, safety, other info.

These are the same type of requirements that they use in San Francisco, which had the same type of problems that we are facing now in Hawaii.

Mahalo for allowing me to testify.



March 18, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "**Nothing in this section shall be deemed to create an employer- employee relationship**" between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,



Dan Monck
President
Hawaii Association of Vacation Rental Managers
www.HAVRM.org

Real Estate Commission Bulletin

Off-Island "Agent" – Licensee or Non-licensee?



contents

Off-Island "Agent" - Licensee or Non-licensee?	(1)
The Chair's Message	(2 - 3)
Act 326 Website	(3)
Administrative Actions	(4 - 6)
Statutory Rules/ Violations	(8 - 9)
Core B 2013 - 2014	(9)
Real Estate Branch Welcomes Two New Members	(9)
Interesting Numbers From The Commission	(10)
Prelicense Schools/ Continuing Education Providers	(11)
Real Estate Commission Meeting Schedule	(12)

When Act 326, Session Laws of Hawaii 2012, was passed, the Real Estate Branch received many calls from licensees who did not understand Act 326, especially the "Local Contact" identified within this Act, and whether or not this "Local Contact" fulfills the off-island agent requirement as stated in Hawaii Revised Statutes ("HRS") Chapter 521, the Residential Landlord-Tenant Code. If you are offering to rent property owned by an off-island owner, an on-island agent is required by HRS §521-43(f), the Residential Landlord-Tenant Code. "Agent" is not defined in Chapter 521, HRS.

The "Local Contact" defined in Act 326 pertains to HRS Chapter 237D, Transient Accommodations Tax. The "Local Contact" individual is an on-island individual who must register with the Department of Taxation to assist in the collection of taxes regarding the rental property. Act 326, and its "Local Contact" is not necessarily the individual who may act as an on-island agent for off-island rental property owners.

"Agent" is also not defined in HRS Chapter 467, the real estate brokers and salespersons licensing law. As used in HRS 521, "off-island agent" is not defined in Chapter 467. For an off-island property owner, landlord, trustee, or a person with the power of attorney from the owner, who is offering to rent Hawaii property, if the on-island agent is also involved in real estate activities, this on-island agent needs a real estate license.

An "on-island" agent may be one of the following:

- a) Hawaii-licensed real estate broker or salesperson; or
- b) "Custodian or caretaker" - "custodian or caretaker" is one of the exceptions to requiring a real estate license, and is defined in Chapter 467, HRS, and reads, "Custodian or caretaker" means any individual, who for compensation or valuable consideration, is employed as an employee by a single owner and has

the responsibility to manage or care for that real property, left in the individual's trust; provided that the term, "custodian" or "caretaker" shall not include any individual who leases or offers to lease, rents or offers to rent, any real estate for more than a single owner, provided further that a single owner shall not include an association of owners of a condominium, cooperative, or planned unit development." (emphasis added)

The "custodian or caretaker" exemption is an unlicensed individual, who for a single owner, manages or cares for the single owner's property. The single owner may be an individual or an entity. The single owner must employ the custodian or caretaker. Information on employing another individual may be obtained from the State Department of Taxation and the State Department of Labor and Industrial Relations. There will likely be other considerations when employing the custodian or caretaker such as requirements for unemployment insurance, workmen's compensation insurance, temporary disability insurance, vacation and sick pay, etc. Single owners may own more than one real property. If the single owner is an entity, however, the entity employing a custodian or caretaker must be licensed as a real estate broker or hire a licensed real estate broker to manage the single owner's property. The exceptions to having a real estate license as listed in HRS §467-2 are for individuals, NOT entities.

Real estate licensees listing and selling investment or rental properties should disclose to potential buyers and the licensees representing them, the requirement for an on-island agent if the buyer of a rental property does not or will not reside on the island where the property is located.

The on-island agent may be a non-licensee or a real estate licensee. Again, depending what the non-licensee on-island agent DOES will determine if the on-island agent requires a real estate license.



Kona Coast Property Management LLC dba
Kona Coast Vacations
74-5565 Luhia Street, Suite 101
Kailua Kona, HI 96740
808-329-2140

March 18, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312

Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the “Local Contact” as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code’s on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT’s Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a “Local Contact” for the entirety of Section 2 of this Tax ACT. ACT 326’s definition of the “Local Contact” states that ***“Nothing in this section shall be deemed to create an employer- employee relationship”*** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the “Local Contact” of the Tax Code, is acting as a “Caretaker or Custodian” as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code,



*Kona Coast Property Management LLC dba
Kona Coast Vacations
74-5565 Luhia Street, Suite 101
Kailua Kona, HI 96740
808-329-2140*

237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State’s demonstrable record of aggressive “zero tolerance” enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations,**



Kona Coast Property Management LLC dba
Kona Coast Vacations
74-5565 Luhia Street, Suite 101
Kailua Kona, HI 96740
808-329-2140

Hawaiian or out of state, are held to the same rental requirements for conducting their operations.

Suggested definition language for the “Local Contact” of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

▪ *or*

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Thanks for your time in considering these comments.

Mahalo,

Ted Klassen MBA
Kona Coast Property Management LLC dba Kona Coast Vacations
74-5565 Luhia Street, suite 101
Kailua Kona, HI 96740

ABBEY VACATION RENTALS

purveyors of paradise

MAILING ADDRESS
77-6425 Kuakini Hwy.
C2 PMB 80
Kailua-Kona, HI 96740

OFFICE LOCATION
75-1029 Henry Street
Suite 103
Kailua-Kona, HI 96740

Tel 808-331-8878
Fax 808-443-0220
Toll Free 866-456-4252
mail@konarentals.net
mail@kohalarentals.com

March 18, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that ***"Nothing in this section shall be deemed to create an employer- employee relationship"*** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal Transient Accommodation operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Sue Fyffe





P.O. Box 383940
Waikoloa, HI 96738
Waikoloa highlands Shopping Center
68-1845 Waikoloa Rd. Suite 104
Office: (808) 883-9550
Fax: (808) 883-9440
www.hawaiidreamproperties.com

March 16, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467. Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "**Nothing in this section shall be deemed to create an employer- employee relationship**" between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner. The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection. In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State’s demonstrable record of aggressive “zero tolerance” enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the “Local Contact” of SB 519 SD2 & ACT 326, Session Laws 2012

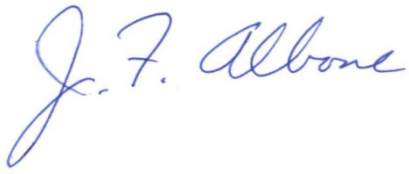
a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

- or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo and Aloha,

A handwritten signature in blue ink that reads "J. F. Albone". The signature is written in a cursive, flowing style with a large initial "J" and a distinct "F".

Jim Albone – R(B) – Hawaiian Dream Properties

WEST HAWAII PROPERTY SERVICES, INC.
75-5995 Kuakini Hwy, Suite 311
Kailua-Kona, Hawaii 96740

March 16, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2. The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467. ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467. Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that ***"Nothing in this section shall be deemed to create an employer-employee relationship"*** between the Local Contact and the operator. This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467. An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is they are an employee of a single property owner, and that this person may provide this service for only one property owner. The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection. In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these Individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses. Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner. We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

☐ *Or*

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO. Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Jennifr Conway
West Hawaii Property Services, Inc.
jeninhb@hotmail.com
Website: www.konarentals.com

Boundless Hawaii

Boundless Hawaii, LLC • 75-5870 Waialae Road, Suite 201 • Kailua-Kona 96740 • www.boundlesshawaii.com

March 10, 2013

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312

RE: SB 519 SD2, Relating to Taxation

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to COMMENT upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "*Nothing in this section shall be deemed to create an employer-employee relationship*" between the Local Contact and the operator. This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.

Unfortunately this has proven not to be the case. Illegal transient vacation rental operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental

regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. With this language, all operators of Transient Accommodations, Hawaiian or out of state are held to the same rental requirements for conducting their operations.

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CJO.

Sincerely,



Amanda Stronman



Dear Hawaii State Legislature,

This letter is written to COMMENT upon SB519 SD2

I am the owner and President of South Kohala Management (SKM), a property management firm handling over 100 vacation rentals in the resort communities of the Kohala Coast, on Hawaii Island since 1982. The tourism industry is a key industry in Hawaii and needs to be regulated effectively in order for our state to prosper. There is a lot of opportunity to increase occupancy at the local hotels and vacation rental properties across our island, but business is being siphoned away from these legal and professional tourism sectors to the exploding prevalence of “illegal” vacation rentals. The predominance of “illegal” vacation rentals on the Big Island’s Kohala Coast are properties that are managed by the non-resident property owner from out of state, which violates Hawaii’s Real Estate Code and Landlord Tenant Code, HRS 521 and HRS 467.

Illegal operators of vacation rentals are advertising properties for rent online, executing rental contracts from outside the state of Hawaii, collecting rental deposits that are not held in qualified trust accounts, and evading Hawaii taxes and laws for their own profit and benefit. Vacation rentals managed by local licensed businesses, like South Kohala Management, collect the GE and TA taxes (currently 13.416% on Hawaii Island) and have to compete against rentals that do not impose this mandatory tax. This has suppressed nightly rates for many years and the problem is growing. This situation is hurting all sectors of the lodging industry that are forced to compete with the illegal vacation rentals that don’t charge these taxes and undercut our prices.

Local companies like SKM provide jobs, follow the laws, pay our taxes and provide a needed service in Hawaii’s tourism and real estate industries. The state has been aware of the illegal vacation rental problem for years but very little if no enforcement has been demonstrated. Local workers are frustrated that the state holds us to the standards of the law (as it should) but does not do the same for out-of-state property owners and investors. Who does the state have a duty to protect?

When Tax Act 326 was passed in 2012 it was a step in the right direction for the state of Hawaii to take a more serious stance on the enforcement and collection of these vital taxes for our state. But the state needs to do more to enforce and punish these illegal operators of transient accommodations. The problem with Act 326 and SB 519 is that the term “Local Contact” is used to describe the on-island operator of vacation rentals, but that can be interpreted to mean different things than what the Hawaii Real Estate Code HRS 521 and the Hawaii Landlord Tenant Code HRS 467 clearly define. It is the law in Hawaii that an owner who does not reside on the same island as their property must appoint either:



a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

▪ or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

The purpose for my testimony is for the Committee to consider changing the definition of the term "Local Contact" in SB 519 SD2 and in Section 2 of Act 326 to be consistent with the requirements of the statutes that govern the renting or leasing of residential real estate in the state of Hawaii. This term is single handedly provided a loophole for many of these illegal operators to cite when defending their rights to lease/offer for rent their Hawaiian property as a vacation rental from out-of-state with no appointed property manager. The term "Local Contact" should be defined as, "a legal operator of a transient accommodation as governed by the Hawaii state Real Estate Code HRS 521 and the Hawaii Landlord Tenant Code HRS 467."

Please support local law-abiding businesses and the efforts of HAVRM (Hawaii Association of Vacation Rental Managers) to make these needed corrections. We are not asking for you to change the law, just to make it clear and to enforce it. It is imperative that the legislature and the DCCA hold ALL PERSONS ENGAGING IN BUSINESS IN HAWAII TO THE SAME STANDARDS WITH EQUAL APPLICATION AND ENFORCEMENT OF THE LAW.

Sincerely,

Malia Rozetta
President



March 16, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312

Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for

**10 Hoohui Road Suite 110, Lahaina, Hawaii 96761 Office 808-669-0423
Toll Free 800-326-9874 Fax 808-669-8409 Email info@MauiResorts.com**

the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that "*Nothing in this section shall be deemed to create an employer- employee relationship*" between the Local Contact and the operator. This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian

**10 Hoohui Road Suite 110, Lahaina, Hawaii 96761 Office 808-669-0423
Toll Free 800-326-9874 Fax 808-669-8409 Email info@MauiResorts.com**

Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

▪ or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Patrick T. Sullivan
Principal Broker/Owner
Sullivan Properties, Inc.
10 Hoohui Rd. #110
Lahaina, HI. 96761
Cell: 808.870.6428
Fax: 808.669.8409
www.mauiresorts.com

Condominium Rentals Hawaii



362 Huku Li'i Pl., # 204, Kihei, HI 96753 • Tel (808) 879-2778 • Toll Free (800) 367-5242 • Fax (808) 879-7825

March 17, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

COMMENT upon SB 519 SD2.

SB519 appears to be an effort to correct some deficiencies in Act 326. The proposed changes will not address the real issue with Act 326 in that it has deregulated a segment of the vacation rental business by allowing a non-licensee (local contact) to act in place of an on-island agent. This tax Act also conflicts with existing real estate and landlord tenant laws.

The requirements imposed on this industry in the early eighties ensured that vacation rental properties were being managed by licensed professionals who were educated in Hawaii laws as well as Federal fair housing laws. Local contacts have no such expertise that the State felt was necessary many years ago.

The situation created by Act 326 leads off-island property owners to believe they are complying with State law by using their housekeeper or other unlicensed person to act as their local contact. These "local contacts", being unlicensed, have no idea that a real estate license is required to manage properties in Hawaii unless they are an employee for one property owner.

From a tax collection perspective, the Department of Taxation is on record as saying Act 326 has been of no use in collecting unpaid taxes. The proposed changes will not give the Department of Taxation any additional tools to assist in collecting the millions of taxes that are currently not being paid.

I am in support of the proposed changes as outlined in the testimony provided by Hawaii Association of Vacation Rental Managers (HAVRM)

Mahalo for the opportunity to submit testimony.

Yours very truly,


R. Allan Ralkes
President

RAR/lm

brower1-Luke

From: Rep. Tom Brower
Sent: Tuesday, March 17, 2015 12:39 PM
To: brower1-Luke
Subject: FW:

From: Rentals Maui [mailto:aloha@rentalsmaui.com]
Sent: Monday, March 16, 2015 1:28 PM
To: Rep. Tom Brower
Subject:

March 18, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312

Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

I am writing to you as a licensed Real Estate Broker and Property Manager of 185 Vacation Rentals On Maui. I urge you to consider the following text below my initial comments, as I believe it is very worthy of your consideration.

Consumer Protection; each year we have scores of calls and guests come into our office completely undone. They have been duped on owner websites, or other online advertisements and show up here on Maui with no place to stay or it turns out it is someone's garage. I can't tell you how disheartening it is to face these guests as it may be the one and only time they come to Maui. I even had one guest come to their condo only to find an eviction notice on the door. These guests have no recourse. They can try and piece their trip together by coming to a legitimate Real Estate office and we try and help them as best we can. But it is not right. When people rent from us, they have recourse. We need to protect these guests from fraudulent and misleading ads.

Taxation: I believe most people are paying their taxes. But there is really no way to check this. The State needs to have a way where the taxes are accounted for. Whether it is through a Hawaii Client Trust Account or through a licensed Property Manager or CHO, the State should be able to account for all of these online rentals.

Fairness: As a Real Estate Broker, we are expected to take hours of continuing education, subscribe to a Code of Ethics, follow the Hawaii Statutes and are accountable to the DCCA. We spend thousands of dollars each year for licensing, Errors and Omissions Insurance, Liability Insurance, Bonding, and rental of office space and staffing. It is simply not fair for an individual person to be allowed to masquerade as a property manager. You cannot imagine the issues that come up in managing short term rentals and they need to be handled in a

professional way. The owners, the guests and condo complexes all need competent people managing their Hawaii Real Estate.

I implore you to please study the comments below.

Sincerely, Kathy Englert RB, Rentals Maui Inc.

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the “Local Contact” as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code’s on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT’s Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a “Local Contact” for the entirety of Section 2 of this Tax ACT. ACT 326’s definition of the “Local Contact” states that ***“Nothing in this section shall be deemed to create an employer-employee relationship”*** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the “Local Contact” of the Tax Code, is acting as a “Caretaker or Custodian” as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has

demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the "Local Contact" within SB 519 SD2 & the present ACT 326, which will make the TAT code's requirements for its "Local Contact" consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the "Local Contact" of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

▪ *or*

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Aloha for now,

Kathy Englert RB

Rentals Maui, Inc.

2395 S. Kihei Rd., #201, Kihei, HI 96753

Toll-free 1-800-808-3138

www.rentalsmaui.com

Please update our email address in your records:

aloha@rentalsmaui.com

"Maui No Ka 'Oi" - Maui is the Best!

brower1-Luke

From: Rep. Tom Brower
Sent: Tuesday, March 17, 2015 12:28 PM
To: brower1-Luke
Subject: FW: Testimony on SB 519 SD2

From: Lucy Kawaihalau [mailto:lucy@kvrre.com]
Sent: Monday, March 16, 2015 6:04 PM
To: Rep. Tom Brower; Rep. Takashi Ohno
Cc: Rep. James Tokioka; Rep. Derek Kawakami; lucy
Subject: Testimony on SB 519 SD2

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312
Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

Please note the comments below. It is extremely important to our Visitor Industry that when our guests are renting Vacation Rental accommodations they are taken care of by Licensed Professional managers when a person is managing more than one property. I have personally managed vacation rentals here on the island of Kauai for the past 39 years and would appreciate your consideration.

COMMENT upon SB 519 SD2.

The definition of the "Local Contact" as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statues pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code's on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT's Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a "Local Contact" for the entirety of Section 2 of this Tax ACT. ACT 326's definition of the "Local Contact" states that ***"Nothing in this section shall be deemed to create an employer- employee relationship"*** between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.**

An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the “Local Contact” of the Tax Code, is acting as a “Caretaker or Custodian” as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner.

The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived “rights” to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii’s rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor’s safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their “Local Contact” are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State’s demonstrable record of aggressive “zero tolerance” enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. **With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.**

Suggested definition language for the “Local Contact” of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

• or

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo nui loa, Lucy Kawaihalau
President / Owner / Principal Broker
Kauai Vacation Rentals
808.245.8841
800.367.5025
www.KauaiVacationRentals.com

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:21 PM
To: TOUtestimony
Cc: jane@napaliprop.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Jane F. Abramo, REALTOR	Individual	Comments Only	No

Comments: Please insure that all visitors and residents are protected by having rental properties managed by on-island professional managers. We'll make sure tenants rights are respected. We'll make sure the taxes are paid. This is true for long terms rentals and vacation rentals. Thank you. Jane F. Abramo, REALTOR Na Pali Properties, Inc. Hanalei, Kauai

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 7:42 AM
To: TOUtestimony
Cc: konapam@hawaii.rr.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/17/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Pamela Higgins	Individual	Comments Only	No

Comments: The Honorable Tom Brower, Chair House Committee on Tourism Honolulu, HI 96813
RE: S.B. 519 SD2 Dear Chair Brower and Committee Members As a Real Estate professional for 27 years, managing vacation rentals what I see blatant disregard of laws already in place pertaining to vacation rentals. What is needed is clarification of Local Contact in Section 2 of ACT 326 which as written is in direct conflict with Real Estate code HRS 467-1. An on island caretaker in 467-1 was an employee of a mainland owner here to oversee the mainland owner's property, not a rental agent. Tax code is now in direct conflict with Real Estate Code. Mainland owners are now using Act 326 to assert their rights to rent property from the mainland and disregarding Real Estate Code. Please correct SB 519 and Act 326 to be in compliance with current Real Estate Code and enforce these laws evenhandedly. Sincerely Pamela Higgins, P.B. SunQuest Vacations

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Cynthia Nyross on behalf of Rep. Tom Brower
Sent: Tuesday, March 17, 2015 2:16 PM
To: TOUTestimony
Subject: FW: SB 519 HD2 Testimony

From: Patricia Freeman [mailto:puako@lava.net]
Sent: Monday, March 16, 2015 6:36 AM
To: Rep. Tom Brower
Subject: SB 519 HD2 Testimony

March 16, 2015

The Honorable Tom Brower, Chair
House Committee on Tourism State Capitol, Room 312

Honolulu, Hawaii 96813

RE: S. B. 519 SD2, RELATING TO TAXATION.

Aloha Chair Brower, Vice Chair Ohno and Members of the Committee:

This letter is written to **COMMENT** upon SB 519 SD2.

The definition of the “Local Contact” as described in Section 2 of ACT 326, Session Laws of 2012 as written is deficient, and is in direct conflict with the existing Statutes pertaining to the rental of residential property in Hawaii, HRS 521 and HRS 467.

ACT 326 clearly identifies the Landlord Tenant Code’s on-island agent requirement, specifically HRS 521-43(f), and cites that a core aspect of this ACT is to reinforce this on-island agent requirement in support of consumer protection and Hawaii Tax collection as stated in this ACT’s Section 1. While the Landlord Tenant Code requires an on-island agent for off island rental owners renting their Hawaii properties, the nature and requirements of the person acting in this agent role are defined in the Real Estate Code, HRS 467.

Section 2 of ACT 326 renames the on-island agent referenced in Section 1, and the Landlord Tenant Code, and refers to this individual as a “Local Contact” for the entirety of Section 2

of this Tax ACT. ACT 326's definition of the "Local Contact" states that *"Nothing in this section shall be deemed to create an employer- employee relationship"* between the Local Contact and the operator. **This statement within ACT 326 is in direct conflict with the Real Estate Code, HRS 467.** An unlicensed person performing the role of an on-island agent of the Landlord Tenant Code or the "Local Contact" of the Tax Code, is acting as a "Caretaker or Custodian" as defined in the Real Estate Code, HRS 467-1, and exempted from Real Estate licensing per HRS 467-2(3). A key requirement of this individual is that they are an employee of a single property owner, and that this person may provide this service for only one property owner. The purpose of the Landlord Tenant Code and the Real Estate Code are to govern and regulate the rental of residential real estate in Hawaii. The purpose of the TAT Code, 237D, is to govern and regulate tax. **The TAT Code should not contradict, undermine, or contravene, the regulatory prerogatives of Statutes and activities outside of its TAT responsibilities e.g., the Landlord Tenant Code and Real Estate Codes pertaining to rentals.**

Unfortunately this has proven not to be the case. Illegal transient vacation rentals operators routinely cite their perceived "rights" to conduct off island rental activities in an illegal manner citing ACT 326, a TAT law, as their excuse to ignore and violate Hawaii's rental Statutes, the Landlord Tenant and Real Estate Codes. They do so without fear of prosecution by the State. The violation of these statutes has had a direct and significant impact upon Hawaii visitor consumer protection, these visitor's safety, Hawaii Tourism, and Hawaii tax collection.

In contrast, Hawaii Transient Accommodations businesses are held accountable by the State to be in compliance with these same rental Statutes. This accountability is then insured through the diligent enforcement of these regulations upon Hawaii Transient Accommodations businesses by the DCCA/RICO.

Hawaii laws should be applied equally to everyone in a uniform and fair manner. ACT 326 and SB 519 requirements of their "Local Contact" are not consistent with the Hawaii rental regulations and requirements that Hawaiian Transient Accommodations businesses are held to by the State. This discrepancy permits Transient Accommodation operators, many of whom are located outside of Hawaii, to operate noncompliant to Hawaii rental regulations without risk. The State of Hawaii, while knowing of this openly illegal activity, has demonstrated no measurable effort to enforce its rental regulations upon these individuals and businesses, as compared to the State's demonstrable record of aggressive "zero tolerance" enforcement of rental regulations upon Hawaii Transient Accommodation businesses.

Hawaii citizens and businesses are entitled to equal protection under the law. Having one set of rental laws/requirements for Hawaiians and their businesses with strict enforcement upon them by the State, and another far weaker requirement, ACT 326 with no demonstrable enforcement by the State, for others is wrong and unsustainable; it places Hawaiian citizens and their Transient Accommodation businesses intentionally in a subordinate position as compared to other Transient Accommodation operators, primarily out of state, without a clear public interest rationale for the State of Hawaii to act in such a manner.

We would suggest to the Committee the following language to correct this serious defect in the definition of the “Local Contact” within SB 519 SD2 & the present ACT 326, which will make the TAT code’s requirements for its “Local Contact” consistent with the requirements of the Statutes governing the rental or leasing of residential real estate in Hawaii. With this language, all operators of Transient Accommodations, Hawaiian or out of state, are held to the same rental requirements for conducting their operations.

Suggested definition language for the “Local Contact” of SB 519 SD2 & ACT 326, Session Laws 2012

a) Any individual, who for compensation or valuable consideration, is employed as an employee by the operator of a transient accommodation to provide services required by this section, and this individual may provide these required services for a single operator only.

▪ *or*

b) A Hawaii Real Estate Broker, a Hawaii Real Estate Salesperson under the direction of a Hawaii Real Estate Broker, or a Hawaii CHO.

** Department of Taxation should have the right to require documentation they deem appropriate, unemployment insurance, temporary disability insurance, etc., from an operator to confirm employer requirements of (a) above are followed.*

Mahalo,

Warmest Aloha,

Pattie

Pattie Freeman, Real Estate Broker
Hawaii Vacation Rentals, Inc.

www.VacationBigIsland.com

Direct 808.882.7000 | fax 808.882.7607
puako@lava.net | seaside@aloha.net

Follow updates on Twitter and Facebook Always new things about the Big Island

<http://twitter.com/#!/PuakoPattie/followers>

<http://www.facebook.com/HawaiiVacationRentalsInc>

Linkedin: www.linkedin.com/in/pattiefreemanpuakopattie77

P. O. Box 2880
Kamuela, HI 96743

brower1-Luke

From: Ada Eschen <adaeschen@yahoo.com>
Sent: Monday, March 16, 2015 4:22 AM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,
Ada Eschen

brower1-Luke

From: Tim Duchene <timduchene@gmail.com>
Sent: Monday, March 16, 2015 6:49 AM
To: TOUtestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Tim Duchene

10 Wailea Ekolu Place

Wailea, HI 96753

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 7:27 AM
To: TOUtestimony
Cc: tgardiner@intergate.ca
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Terry Gardiner	Individual	Support	No

Comments: I fully support SB519 SD2. I have a licensed TVR in a hotel zoned property and I am in full compliance with Act 326. Act 326 works well, it sets out clear rules and it helps in enforcing the tax laws. Mahalo for the opportunity to testify. Terry Gardiner 248,130 Kai Malina, Lahaina 96761

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: sedlic <sedlic@shaw.ca>
Sent: Sunday, March 15, 2015 5:07 PM
To: TOUTestimony
Cc: 'Ron Sedlic'
Subject: SUPPORT HB519 SD2

Importance: High

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,
Ron Sedlic



This email has been checked for viruses by Avast antivirus software.
www.avast.com

brower1-Luke

From: L SEDLIC <lisasedlic@shaw.ca>
Sent: Sunday, March 15, 2015 5:05 PM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Importance: High

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,
Lisa Sedlic

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 14, 2015 6:57 AM
To: TOUtestimony
Cc: nealhalstead@yahoo.ca
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/14/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Neal Halstead	Individual	Support	No

Comments: Aloha. This bill is exactly the right solution for transient accommodation rentals and I am happy to provide my full and unqualified SUPPORT. Mahalo for all you do for the people of Hawaii.
Neal Halstead

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 2:36 PM
To: TOUtestimony
Cc: aurorasands@gci.net
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Meera Kohler	Individual	Support	No

Comments: I strongly support extending Act 326 for five years. This Act was the product of extensive discourse and debate in 2012 when it was finally enacted with the full support of both bodies of the Hawaii legislature. Enforcement of this Act will greatly reduce instances of illegal TVRs and the department should be required to report annually to the legislature on enforcement activities. Mahalo for the opportunity to testify. Meera Kohler Co-owner and operator of a legal vacation rental in Maui

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Linda Mitchell <lindafinearts@gmail.com>
Sent: Sunday, March 15, 2015 7:16 PM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Thank you,

Linda Mitchell

brower1-Luke

From: Laurence Knight <knight9798@shaw.ca>
Sent: Sunday, March 15, 2015 8:09 PM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Kauai in the Vacation Resort District of Princeville and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,
Laurence Knight

Laurence Knight
13974 Laurel Ave
White Rock BC V4B 5J8
604-541-9798
<http://www.tillersfolly.com> <http://www.facebook.com/tillersfolly> <http://www.youtube.com/tillersfolly>

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 3:07 PM
To: TOUtestimony
Cc: kristin.maksic@gmail.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Kristin	Individual	Support	No

Comments: Dear Legislators, Thank you for the opportunity to provide testimony. I am an owner of a transient vacation rental on Kauai located in the visitor destination area and comply with all aspects of Act 326. I SUPPORT SB519 SD2 as currently written. Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent. Mahalo, Kristin

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 7:48 AM
To: TOUtestimony
Cc: jill_oudil@telus.net
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Oudil	Individual	Support	No

Comments: Mahalo for the opportunity to testify. I strongly support SB519 Act 326 is a fair and reasonable measure. I am compliant in all aspects of Act 326 in managing my own rental. Many thanks Jill Oudil #440, 130 Kai Malina Parkway Ka'anapali 96761

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Jerry Helmey <ekoluvacationrental@gmail.com>
Sent: Monday, March 16, 2015 6:51 AM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Jerry Helmey

10 Wailea Ekolu Place

Wailea, HI 96753

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 12:56 PM
To: TOUtestimony
Cc: timberlineventures@gmail.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
James Long	Individual	Support	No

Comments: I am the owner of a transient vacation rental property on the Big Island. I support SB519 SD2 as currently drafted. Mahalo for the opportunity to testify. James Long Timberline Land Co. HI

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Elen Stoops <stoose@gmail.com>
Sent: Sunday, March 15, 2015 9:51 AM
To: TOUTestimony
Subject: SUPPORT SB519 SD2

Dear Legislators

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Elen Stoops

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 6:34 PM
To: TOUtestimony
Cc: don.debienne@icloud.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Donald Debienne	Individual	Comments Only	No

Comments: I am an owner of a transient vacation rental on the Big Island and am in compliance with all aspects of Act 326. I SUPPORT SB519 SD2 as tabled and encourage a YES vote on this bill.
Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email
webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 5:40 PM
To: TOUtestimony
Cc: Palekaiko@hawaiiantel.net
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Della Halvorson	Individual	Support	No

Comments: I SUPPORT SB519 SD2 as currently written. Please vote YES on this measure

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Christian Ruhrmann <cruhrmann@telus.net>
Sent: Sunday, March 15, 2015 4:47 PM
To: TOUTestimony
Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Christian Ruhrmann

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 11:35 AM
To: TOUtestimony
Cc: prentissc001@hawaii.rr.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Charles Prentiss	Kailua Neighborhood Board	Support	No

Comments: This bill will improve enforcement, and may enhance revenue for the State.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 15, 2015 7:41 PM
To: TOUtestimony
Cc: carabirk@gmail.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/15/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Cara Birkholz	Individual	Support	No

Comments: mahalo for the opportunity to testify. I support SB519 SD2 as it presently stands. I am a resident of Maui and the owner of several legal vacation rentals in Kihei. I am also a member of the Rental By Owner Awareness Association. Additionally, please ensure that all owners are educated that they need to display their licenses in their condos. Education is key. mahalo. Cara Birkholz 808-281-7934

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

Dear Legislators,

Thank you for the opportunity to provide input for SB519 SD2. I am an owner of a transient vacation rental on Kauai in a hotel-zone and comply with all aspects of Act 326.

I support SB519 SD@ as it is currently written.

Please vote yes on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Bonnie Aitken

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 12:47 PM
To: TOUtestimony
Cc: honolulub@aol.com
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Bob Cook	Captain Cook Real Estate	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Barry Mittlestead <barrym@telus.net>
Sent: Monday, March 16, 2015 12:53 PM
To: TOUTestimony
Subject: I support HB519 SD2

I own a transient vacation rental on Maui. I comply with all aspects of Act 326.
Please vote yes to this measure as currently written.
Mahalo,
Barry Mittlestead

March 15, 2015

Subject: SUPPORT HB519 SD 2

Dear Legislators,

Thank you for the opportunity to provide input.

I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with ALL aspects of Act 326.

I SUPPORT SB 519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Sessions Laws of Hawaii 2012, permanent.

Mahalo,

Amy Shepherd

Dear Members of the Committee:

I support the positive amendments evidenced in SB519 SD2 and hope that you will support this bill.

Its drafters have created a bill, one that builds upon the effort so many made in 2012 to create *Act 326*. Its practicality lies in its extension of the respect *Act 326* demonstrates for constitutional values and provisions of trade agreements to which Hawaii is a party. It's cleverness, however, lies in the focus it pays to driving progress and continuity. This is soundly evidenced in the important responsibility it directs to the Hawaii Department of Taxation to assist all in further efforts to build upon this work to make a complex issue clearer, and solutions to challenges identified compliant with core constitutional and trade agreement principles, values, and obligations.

The amendments evidenced in SB519 SD2 respect broad-based efforts to bring about an effective and workable solution for the State, its residents, its investors, and the global consumers of Hawaii's tourism export who seek in Hawaii a broad array of accommodation choices.

Again, I do hope you will support SB519 SD2. It's a bill that will achieve a great many expectations of effective and balanced policy making.

With kind regards,

Adam

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 3:47 PM
To: TOUtestimony
Cc: annettelohman@earthlink.net
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Annette Lohman	Individual	Support	No

Comments: Thank you for the opportunity to present testimony. I am the owner of a fully legal, tax-paying TVR condominium located in a designated resort zone. I support this bill which requires all providers of Transient Vacation Rentals to charge guests transient and general excise taxes. This bill extends Act 326 to 2020 and is a reasonable and balanced approach to bringing illegal TVRs into compliance. Mahalo.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 3:59 PM
To: TOUtestimony
Cc: chrisyarish@hotmail.com
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Chris Yarish	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:03 PM
To: TOUtestimony
Cc: timduchene@gmail.com
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Tim Duchene	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:19 PM
To: TOUtestimony
Cc: kazoom@gci.net
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Marilyn Leland	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:23 PM
To: TOUtestimony
Cc: pualanipat@gmail.com
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Starkie	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:44 PM
To: TOUtestimony
Cc: marshavaughn3@att.net
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Marsha Vaughn	Individual	Support	No

Comments: Mahalo for your support of this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 4:49 PM
To: TOUtestimony
Cc: jann@dccnet.com
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Jann Mittlestead	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 5:10 PM
To: TOUtestimony
Cc: mhubner@halehubner.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Hubner	Individual	Support	No

Comments: I am one of the many owners of legal transient vacation rentals in the State of Hawaii. I comply with Act 326, and I support its continuation as specified in this bill as well as the increased enforcement of its existing measures. Thank you for the opportunity to provide testimony. Matt Hubner

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 6:31 PM
To: TOUtestimony
Cc: joeslabe@hotmail.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Joe Slabe	Individual	Support	No

Comments: I own a condo in Kihei and I support this bill.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Milo McGarry <milomcgarry@gmail.com>
Sent: Monday, March 16, 2015 6:36 PM
To: TOUTestimony
Subject: Support HB519 SD2

I am an owner of a transient accommodation on Maui in a hotel zone. I am fully compliant with Act 326.

I fully support HB519 SD2.

Please vote yes and make 326 permanent.

Milo McGarry
604-341-0062

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 7:09 PM
To: TOUtestimony
Cc: jillfletch1966@yahoo.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Jill Fletcher	Individual	Support	No

Comments: I SUPPORT SB519 SD2

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 16, 2015 7:34 PM
To: TOUtestimony
Cc: mauibeachhouse@homesbykaren.ca
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/16/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Karen Raymond	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: Brian <bgroskam@yahoo.com>
Sent: Monday, March 16, 2015 8:57 PM
To: TOUTestimony
Cc: Brian Roskam
Subject: Tesimony supporting SB519

Subject: SUPPORT HB519 SD2

Dear Legislators,

Thank you for the opportunity to provide input. I own a residential condo on Maui, which is zoned for transient vacation rentals. When I am not using it myself I rent it to a handful of repeat guests who return year after year, often for a month or more at a time. I manage my rental business myself, with excellent on-island from a local Kihei property manager, a local housekeeper, and local handyman. I also use only local businesses for plumbing, locksmith, appliance repair, etc.

I support, and company with, all aspects of Act 326.

I SUPPORT SB519 SD2 as currently written.

Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Mahalo,

Brian Roskam
Kihei, Maui 96753

Testimony in **Support of SB519 SD2**

Please pass SB519 SD2 in its current version.

This bill extends Act 326 for five years, directs the tax department to report annually to the legislature, provides the DoT authority to issue cease and desist citations and enforcement of civil penalties.

Act 326 was passed in 2012 after extensive review by both the House and Senate in Conference. Per the preamble of Act 326 it was written to address tax compliance and consumer protection. It reaffirmed that transient accommodations, except hotels, are subject to the landlord tenant codes.

SB 519 now directs the tax department to review and then report its findings and recommendations regarding the implementation of Act 326.

This is a reasonable approach to now assess the adequacy of Act 326.

Please pass SB519 SD2 and retain Act 326.

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 7:05 AM
To: TOUtestimony
Cc: barrym@telus.net
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/17/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Barry	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 1:16 PM
To: TOUtestimony
Cc: sheehan.kathyharnett@gmail.com
Subject: Submitted testimony for SB519 on Mar 18, 2015 09:30AM

SB519

Submitted on: 3/17/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Kathleen Sheehan	Individual	Support	No

Comments: Thank you for the opportunity to provide input. I am an owner of a transient vacation rental on Maui in a hotel-zone and comply with all aspects of Act 326. I SUPPORT SB519 SD2 as currently written. Please vote YES on this measure and make Act 326, Session Laws of Hawaii 2012, permanent.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

brower1-Luke

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 17, 2015 5:03 PM
To: TOUtestimony
Cc: crumps5@sbcglobal.net
Subject: *Submitted testimony for SB519 on Mar 18, 2015 09:30AM*

SB519

Submitted on: 3/17/2015

Testimony for TOU on Mar 18, 2015 09:30AM in Conference Room 312

Submitted By	Organization	Testifier Position	Present at Hearing
Katie Crump	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov